IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

**WP(C).No. 36291 of 2007(U)**

PETITIONER:

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THE SOUTH INDIAN BANK LTD., A BANKING COMPANY REGISTERED UNDER THE COMPANIES ACT 1956, HAVING ITS REGD.OFFICE AT MISSION QUARTERS, T.B.ROAD, THRISSUR-680 01, REPRESENTED BY THE CHIEF MANAGER, KOTTAYAM BRANCH M.M.MATHEW.

BY ADV. SRI.K.K.JOHN
SRI.ASISH K.JOHN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT, GOVT.SECRETARIAT TRIVANDRUM.

2. THE DISTRICT COLLECTOR, KOTTAYAM.

3. THE TAHSILDAR, TALUK OFFICE, KOTTAYAM.

4. THE TAHSILDAR, TALUK OFFICE, CHANGANACHERRY.

5. MR.JOSSY PHILIP, S/O.E.U.PHILIP, EDAVAZHICKAL, PALLIYAMPARAMBIL, THAZHATHANGADI P.O KOTTAYAM-5.

6. MR.E.U.PHILIP, S/O.OTHUP, EDAVAZHICKAL, PALLIYAMPARAMBIL, THAZHATHANGADI P.O. KOTTAYAM-5.

7. SMT.MEENA PHILIP, D/O.E.U.PHILIP,
EDAVAZHICKAL, PALLIYAMPARAMBIL,
THAZHATHANGADI P.O
KOTTAYAM-5.

8. MR.K.K.JOMON, KALLIDIKKAL (MAKKIL),
THAZHATHANGADI P.O, KOTTAYAM-5.

R1 TO R4 BY GOVERNMENT PLEADER SRI.TEKCHAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

# V.GIRI, J.

**W.P.(C).No.36291 of 2007 U**

**Dated this the 11th day of December, 2007.**

## JUDGMENT

The petitioner bank instituted proceedings against respondents 5, 6 and another before the Debt Recovery Tribunal as O.A.No.461/98 for recovery of an amount of Rs.21,15,829.40 with interest and costs.

2. Pursuant to a certificate issued by the Debt Recovery Tribunal, the mortgaged properties listed as Items 1 and 2 scheduled therein were brought to sale on 20.2.2006. The decree holder bank purchased the property for an amount of Rs.8,35,000/- and the sale certificate Ext.P3 was issued. Apparently, the same property was brought to revenue auction for recovery of the amounts allegedly due by way of sales tax arrears as well as margin money and it was purchased by the 8th respondent. The petitioner has a contention that the revenue sale is vitiated by fraud and collusion and in the circumstances, the petitioner has filed Ext.P6 application before the District Collector, Kottayam for setting aside the sale under Section 53 of the Revenue Recovery Act.

In the circumstances, after having heard the learned counsel for the petitioner and the learned Government Pleader, the writ petition is disposed of directing the 2nd respondent to consider and pass appropriate orders on Ext.P6, after hearing the petitioner, as also the auction purchaser and the erstwhile owners of the property, within two months from the date of receipt of a copy of this judgment. The contentions of the petitioner as regards the alleged delay, in the mutation of certain items of property, is not being gone into in this writ petition and are therefore, left open.

Sd/-
**(V.GIRI)**
**JUDGE**

sk/

//true copy//

P.S.To Judge.